

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 2034.03
COMPLAINT INVESTIGATOR: Connie Rahe
DATE OF COMPLAINT: May 1, 2003
DATE OF REPORT: June 12, 2003
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: September 17, 2003

COMPLAINT ISSUES:

Whether the Center Grove Community School Corporation and the Johnson County Special Services violated:

511 IAC 7-27-9(b) by failing to make available to students with a disability the variety of educational programs and services made available to non-disabled students, specifically, precluding students in special education from attending the extended-day kindergarten class.

511 IAC 7-21-7(d) by failing to provide transportation to students with disabilities, and by failing to reimburse the parent for providing the transportation, pursuant to a written agreement with the school.

511 IAC 7-21-3(c) by failing to provide the same length of instructional day for elementary students with disabilities as for non-disabled elementary students, without a case conference committee (CCC) determination.

511 IAC 7-21-3(b) by failing to ensure that extended school year (ESY) services are available, as necessary, to provide a free appropriate public education (FAPE) to students.

An extension of time until June 13, 2003, was granted on May 30, 2003, to allow the investigator sufficient time to review the information related to the issues involved.

FINDINGS OF FACT:

1. The students (Students) addressed in this complaint are enrolled in one elementary school (School) within the corporation. They are eligible for special education services in a kindergarten classroom that serves students under categories for more severe disabilities, and draws those students from multiple school boundaries across the school corporation. The kindergarten students enrolled in general education services at this school come only from within this school's local neighborhood boundaries.
2. The School corporation does not offer an extended day kindergarten class; thus, zero students in general education and zero Students enrolled in special education services attend an extended day kindergarten program.
3. The School provides one-way transportation for all students enrolled in kindergarten. Two Students are enrolled in special education and their IEPs, dated April 17, 2002, and May 28, 2002, both have checked Yes to the question, "Is Special Transportation required?" One IEP also has transportation, daily, listed in the section of the IEP entitled, "Special Education, Related Services, and Supplemental Aids and Services

Needed.” Subsequent to the filing of this complaint, the School informed the parents of these two Students that the School would provide two-way special transportation for the remainder of the school year or provide transportation reimbursement for this school year if a parent wanted to continue to provide special transportation.

4. The hours for kindergarten at the School are from 9:00 a.m. to 11:45 a.m., and from 1:00 p.m. to 3:45 p.m. The School provides transportation as a related service for two Students twenty minutes prior to the end of the school day. During the first semester, parents inconsistently brought the two Students early to school and were allowed to begin their school day 15 to 20 minutes early. During the second semester, the parents were informed they could have an early school arrival time, and the two Students did consistently arrive 15 to 20 minutes early for class. Transportation staff and all principals in the county have been reminded of the need to provide the same length instructional day for all students, and the transportation schedules have been adjusted accordingly.
5. The IEP form for all Students enrolled in the school district contains a section that addresses extended school year services (ESY). The three students enrolled in special education services in this School’s kindergarten have IEPs that all addressed the need for ESY services. Two of the three students will be receiving ESY as a related service during the summer of 2003. The third student’s IEP was checked No for ESY.

CONCLUSIONS:

1. Finding of Fact #2 indicates that the School does not offer an extended-day kindergarten class for students enrolled in either general education or special education services. Therefore, no violation of 511 IAC 7-27-9(b) is found for failing to make available to a student with a disability the variety of educational programs and services made available to non-disabled students, specifically, precluding students in special education from attending the extended-day kindergarten class.
2. During the course of this investigation it was determined that the issue of transportation was better addressed as an issue regarding whether the IEPs had been properly implemented, rather than the original citation, 511 IAC 7-21-7(d). Finding of Fact #3 indicates that the School did not include all required components in the Students’ IEPs. Therefore, a violation of 511 IAC 7-27-6(a)(5) is found for failing to include frequency (see 511 IAC 7-17-37) in the statement of transportation as a related service for Students who are in need of special transportation. The School has subsequently offered to provide two-way transportation and to reimburse the two parents for providing transportation for the current school year. The School has taken steps to ensure that all students enrolled in special education in the district will be afforded transportation services, as needed.
3. Finding of Fact #4 indicates that during the first semester of this school year, the School did not make available to the two kindergarten Students the same length instructional day as for students not receiving transportation as a related service. The School made a correction second semester by informing the parents they could bring the Students 15 to 20 minutes early to begin instruction. The School also informed the principals of the requirement to provide a school day the same length for Students transported for special education programs as for students not receiving special education services. Therefore, although a violation of 511 IAC 7-21-3(c) is found for failing to make available the same length instructional day for kindergarten students with disabilities as for non-disabled students, the School has already implemented corrective actions to address this violation.

4. Finding of Fact #5 indicates the School made ESY services available to all kindergarten Students. Therefore, no violation of 511 IAC 7-21-3(b) is found for failing to ensure that ESY services are available, as necessary, to provide a free appropriate public education to Students.

CORRECTIVE ACTION:

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

The Center Grove Community School Corporation and the Johnson County Special Services shall provide the following:

1. Identify all similarly situated students in the special education district who will be in kindergarten classes in the 2003 to 2004 school year and who require transportation as an IEP related service. The District shall identify those students with transportation included in their IEPs as related services and whose IEPs lack the required component of addressing frequency of such services. The District shall meet in CCC with the parent(s) of those students to determine whether and to what extent the District shall offer to provide two-way special transportation services or to reimburse the parents for transporting the students to school for the 2003 to 2004 school year. A list of those students whose IEPs required such revisions, their school corporations, and a statement of the CCC determination for each shall be forwarded to the Division by August 15, 2003.
2. An assurance statement signed by the Director and all superintendents of school corporations in the district shall be forwarded to the Division by August 15, 2003. The assurance statement shall state the following:
 - a. Parents of all students enrolled in special education services who, according to their IEPs, require transportation as a related service, shall be informed that the parents are not required to provide transportation to the students. Pursuant to a written agreement with the public agency, the public agency shall reimburse the parents who choose to transport their students at no less than the per mile rate at which employees of the public agency are reimbursed.
 - b. Students enrolled in special education services shall have a school day the same length as for nondisabled students in the same building, unless the CCC determines the length of the student's instructional day should be different, and documents the justification in the CCC report.